THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.11436 of 2007

Date:08.06.2007

Between

M/s. Balaji Manikanta Nivas.

----------Petitioner

And

The Buchireddipalem Grampanchayat and others.

----------Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.11436 of 2007

ORDER:

Petitioner is an agency, undertaking the activity of construction and development of buildings in Nellore District. It had taken up a project to construct multi-storied complex at Buchireddipalem Village. Necessary permission was obtained from the Gram Panchayat and undivided shares of the land covered by the building were transferred in favour of the intending purchasers. It is stated that the permission was accorded for construction of 54 flats and out of them, 36 flats have been constructed.

Disputes arose between the petitioner, on the one hand, and the purchasers of flats/undivided shares of the land, on the other. Even according to the petitioner, many of the purchasers have occupied the flats. One power supply connection was obtained by the petitioner, when the

construction was commenced. Controversy persisted as to the extension of individual power supply connections to the flats. While the petitioner filed W.P.No.23712 of 2005, seeking a direction to the authorities of the Gram Panchayat and Southern Power Distribution Company Limited, not to release the power supply, unless the provisions of the Andhra Pradesh Apartments (Promotion of Construction and Ownership) Act, 1987 (for short 'the Act') are complied with, the Association of the residents, 4th respondent herein, filed W.P.No.26848 of 2005, praying for installation of individual meters for the flats. Through a common order, dated 28.02.2006, this Court dismissed W.P.No.26848 of 2005. So far as W.P.No.23712 of 2005 is concerned, it was directed that the individual meters can be installed to the flats, only after a no objection certificate is issued by the Gram Panchayat.

The 4th respondent approached the Gram Panchyat, first respondent herein, by way of an appeal against an order passed by the Panchayat Secretary. Through a resolution, dated 01.06.2007, the first respondent issued no objection certificate in favour of the 4th respondent and based on the same, the third respondent is taking steps to instal individual meters to the flats. The petitioner assails the action of the respondents in this regard.

Sri S.V.Muni Reddy, the learned counsel for the

petitioner submits that the resolution passed by the first respondent is contrary to the provisions of the Act and the A.P.Panchayat Raj Act, in several respects. He contends that the appeal was presented beyond the stipulated period of limitation and that neither his client was put on notice nor the objections raised by it, through a representation, were considered. He also submits that the resolution is contrary to the directions issued by this Court in the common order in W.P.Nos.23712 and 26848 of 2005.

Learned Standing Counsel for Gram Panchayat submits that the resolution does not suffer from any illegality or infirmity and if the petitioner feels aggrieved by the same, it has to avail the remedy under Section 128 of the Panchayat Raj Act.

Sri Subba Reddy, the learned counsel for the 4th respondent submits that the petitioner had been causing some obstruction or the other for the peaceful living of the inmates of the flats. He contends that the first respondent is conferred with the appellate powers and the resolution does not suffer from any illegality or infirmity.

The dispute between the petitioner and the 4th respondent is pending since long time. It has given raise to filing of suits as well as the writ petitions. The power supply to individual flats cannot be released, unless the

certificates, contemplated under Section 4 or Section 26 of the Act, are issued. It was in this context that the 4th respondent has been pursuing the matter with the first respondent. On being satisfied that the construction of the flats is complete, the first respondent issued no objection certificate. Based on the same, the third respondent is taking steps to instal new meters.

If the petitioner is feeling aggrieved by the resolution, dated 01.06.2007, passed by the first respondent, it has to avail the remedy under Section 128 of the Panchayat Raj Act. The appellate authority is conferred with the power to call for the records and examine the matter from various angles. The plea of the petitioner as to limitation, lack of notice etc., can certainly be gone into. This Court is not inclined to entertain the writ petition against the resolution of the first respondent.

The learned counsel for the petitioner submits that his client was not supplied with the copy of the resolution. Learned Standing Counsel has made a copy of the resolution available to the petitioner.

For the foregoing reasons, the Writ Petition is disposed of, leaving it open to the petitioner to work out its remedies against the resolution, dated 01.06.2007, passed by the first respondent. The installation of meters, if any, will

be subject to the outcome of the appeal. There shall be no order as to costs.

08.06.2007

JSU